

Board of Education Agenda Item

Item: _____ D. _____

Date: _____ June 28, 2007 _____

Topic: Final Review: Guidelines for Schools for Students with Disabilities Fund

Presenter: Mr. H. Douglas Cox, Assistant Superintendent for Special Education & Student Services

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Origin:

_____ Topic presented for information only (no board action required)

X Board review required by

X State or federal law or regulation

_____ Board of Education regulation

_____ Other: _____

X Action requested at this meeting _____ Action requested at future meeting:

Previous Review/Action:

_____ No previous board review/action

X Previous review/action

date May 30, 2007

action First Review

Background Information:

The 2006 Appropriation Act established a provision, known as the *Schools for Students with Disabilities Fund*, whereby individuals or businesses may receive tax credits for contributions made to private schools for students with disabilities when the donations are for the purpose of providing tuition assistance for students to attend the school. The Appropriation Act language specified that the Board of Education is to issue guidelines for the administration of this program which is effective July 1, 2007.

Summary of Major Elements

The guidelines contain the following elements:

- Grant Administration: Provisions for receiving donations and disbursing the monies to private schools
- Tax Credit Administration: Provisions for awarding tax credits to donors
- Oversight and Recovery of Funds: Provisions for monitoring private schools' use of donated funds and for recovery of funds under applicable conditions

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education approve the Guidelines for the *Schools for Students with Disabilities Fund*.

Impact on Resources:

Considerable resources will be required to administer the program and to conduct the associated oversight activities. The 2006 Appropriation Act provides two full-time positions, effective July 1, 2007, to administer this program.

Timetable for Further Review/Action:

NA

Guidelines:
Schools for Students with Disabilities
Fund

PREAMBLE

The 2006 Virginia General Assembly, through the Appropriation Act (Item 5.06, Chapter 3, 2006 Special Session I), established the *Schools for Students with Disabilities Fund*. The purpose of this program is to establish a mechanism whereby individuals and businesses may donate monies to help offset the cost of tuition for students with disabilities to attend state approved private schools for students with disabilities and to receive a tax credit for such donations.

The Act specifies that the Virginia Department of Education will administer the fund and that the Board of Education will establish guidelines for the program. The following guidelines address eligibility requirements for private schools to participate in the program; monetary awards to participating private schools under the program; and tax credit administration.

Eligible Schools

All schools licensed by the Board of Education as private day schools for children with disabilities or through the interagency licensure process as private residential schools for students with disabilities will be eligible to receive awards through this program, subject to the submission to the Virginia Department of Education (VDOE) of applicable assurances regarding the use of the award monies and the maintenance of documentation (see Appendix I). Schools not licensed as described herein will not be eligible to participate in the program.

Grant Administration

Individuals or businesses wishing to donate to the *Schools for Students with Disabilities Fund* will submit a completed application to the VDOE using a process and forms established by the Department.

An account will be established within the Department of Education to receive donations to the Fund and disburse awards to eligible private schools. The account will be administered according to state accounting practices and the Appropriation Act provisions governing this program.

All monies in the fund will be distributed equitably to participating private schools for students with disabilities through a method developed by the VDOE. Awarded funds will be disbursed to eligible private schools one time per year on a date to be determined by the Department.

All monies received by private schools under this program must be used for tuition assistance/scholarships for eligible students with disabilities to attend the school. The private schools must maintain documentation that the grant was used accordingly.

The VDOE will develop procedures to oversee and monitor the appropriate use of awards by the private schools as follows:

- Each school that received an award during the fiscal year will submit to the VDOE a report at the end of the fiscal year detailing the number of students who received assistance under the fund, the amount received by each student, and, if applicable, the balance.
- During the conduct of routine or unannounced on-site visits to private schools, VDOE staff will review financial records associated with the fund.

The VDOE will reserve the right to recover funds not expended in accordance with the provisions of the program.

Tax Credit Administration

In any given state fiscal year, the total tax credits issued by the VDOE shall not exceed \$3 million based on \$7.5 million in donations per fiscal year.

Only monetary donations will be accepted for the purpose of awarding tax credits.

For every qualified donation received, the donating individual/entity will receive a tax credit, issued by the VDOE, equal to 40 cents for every dollar donated with the following restrictions:

- For businesses, the minimum required donation is \$1,000 for the minimum \$400 tax credit; the maximum annual donation is \$437,500 for the maximum tax credit of \$175,000.
- For individuals, the minimum required donation amount is \$500, resulting in a minimum \$200 tax credit.

When tax credit certificates are issued, VDOE will notify appropriate units in the Virginia Department of Social Services and the Virginia Department of Taxation. The credit will be applied to the calendar year in which the donation is made.

Tax credits will be awarded to donors on a first-come, first-served basis, based on the order of receipt of donations.

The VDOE will maintain a cumulative total of tax credits issued each fiscal year. When the \$3 million annual tax credit cap has been reached, no further applications for monetary donations will be accepted until the next fiscal year.

Private School Assurances

Any private school licensed by the Virginia Department of Education (VDOE) as a private day school for children with disabilities or licensed through the interagency licensure process as a private residential school for students with disabilities that wishes to establish eligibility to receive monetary awards under the *Schools for Students with Disabilities Fund* (fund) must provide assurances as follows:

- All monies received under the fund must be maintained in a separate account to be used only for the purpose of reducing tuition costs for eligible students with disabilities to enroll.
- The school will maintain an audit trail, subject to review by VDOE personnel that demonstrates that all monies received through the fund were used only for student tuition assistance. The audit trail must include the names of each student recipient and the respective amount of assistance awarded.
- The school must document an equitable methodology for awarding tuition assistance to students.

§ 3-5.06 NEIGHBORHOOD ASSISTANCE PROGRAM AND SCHOOLS FOR CHILDREN WITH DISABILITIES FUND TAX CREDIT

A. Notwithstanding any other provisions of law and effective July 1, 2007, (1) the annual fiscal year cap for tax credits allowed under the Neighborhood Assistance Act shall be increased from \$8 million to \$12 million, (2) \$1 million of the increase shall be allocated for education programs and \$3 million for providing grants to private schools for students with disabilities, (3) the tax credit percentage for donations made by corporations and individuals is reduced from 45 percent to 40 percent, and (4) the restriction placed upon individuals from claiming a tax credit for the donation if a charitable contribution deduction credit is also taken is removed.

The Department of Education shall administer the Schools for Students with Disabilities Fund from which grants will be made to private schools for students with disabilities for the purpose of reducing the tuition costs to attend such Schools. The Fund would be funded from monetary donations for which the Department would allocate the annual \$3 million in tax credits. The Board of Education shall establish guidelines for the grants program, including guidelines for procedures to allocate the \$3 million in tax credits in fiscal years in which more than \$3 million in monetary donations were made to the Fund.

In addition, the \$50,000 taxable year limitation on individual tax credits under the Neighborhood Assistance Act pursuant to § 63.2-2006 of the Code of Virginia shall not apply in any taxable year beginning in the relevant fiscal year of the Commonwealth if, after an equitable allocation of tax credits under the Act of such relevant fiscal year, the total amount of tax credits granted for all programs approved under the Act (including tax credits for monetary donations to the Schools for Students with Disabilities fund) for such fiscal year was less than \$12 million.

B. Notwithstanding the provisions of paragraph A, any business firm that has pledged in writing on or before January 1, 2006, to a neighborhood organization to make a donation to such organization shall be eligible to receive a tax credit equal to 45% of the value of any qualifying donation that is covered under such writing, provided that the donation is made on or before January 1, 2013 and does not exceed the annual caps established in paragraph A. Nothing in this paragraph shall be interpreted or construed as affecting any other provision of the Neighborhood Assistance Act (§ 63.2-2000 et seq. of the Code of Virginia). For purposes of this paragraph, the terms "business firm" and "neighborhood organization" shall mean the same as those terms are defined in § 63.2-2000 of the Code of Virginia.

C. For purposes of this section, the term "individual" means the same as that term is defined in § 58.1-302, but excluding any individual included in the definition of a "business firm" as such term is defined in § 63.2-2000. [sic]